D.P.U. 95-2/3-CC

Joint Petition of Cambridge Electric Light Company and Commonwealth Electric Company for approval of an adjustment in their conservation charges to become effective April 1, 1995 through June 30, 1996.

Investigation by the Department of alternative methodologies by which to calculate the lost base revenues allowed for recovery by Cambridge Electric Light Company and Commonwealth Electric Company.

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I. INTRODUCTION

A. Scope of Proceeding

On February 3, 1995, Commonwealth Electric Company ("Commonwealth") and Cambridge Electric Light Company ("Cambridge") (collectively, "Companies") filed a Joint Initial Petition for approval by the Department of Public Utilities ("Department") of a change in their conservation charges ("CCs") to become effective April 1, 1995 through June 30, 1996. On February 24, 1995, the Companies filed a Joint Supplemental Petition, providing prefiled testimony of their witnesses and supporting schedules. The Companies will file conservation program monitoring and evaluation ("M&E") reports in April 1995[1] for their DSM programs (collectively, "the M&E Report"). The M&E Report will provide descriptions of the Companies' impact evaluation results (i.e., estimates of energy savings) for its demand-side management ("DSM") programs. The results of these evaluations are used by the Companies and the Department for planning purposes and to determine the amount of lost base revenue ("LBR")[2] to be collected by the Companies.

The conservation charge is the mechanism whereby costs for DSM implementation are recovered.[3] The components of the CC include (1) projected DSM program expenditures for the

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[1] By letter dated January 13, 1995, the Companies set forth a proposed filing schedule, which calls for the M&E Report to be filed in April 1995. After Department review, any resulting changes to the CCs would become effective October 1995.

[2] Lost base revenues are those revenues that a company does not collect from its ratepayers because of the decrease in billing units that result from DSM program savings.

[3] The CC cost recovery mechanism was originally established by the Department in Cambridge Electric Light Company/Commonwealth Electric Company, D.P.U. 89-114/90-

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period April 1, 1995 through June 30, 1996, (2) projected LBR for the period April 1, 1995 through June 30, 1996, and (3) a reconciling adjustment of over- and under-recoveries of DSM expenditures through March 31, 1995.

In this Order, the Department makes findings regarding the CC rates to be implemented by the Companies for the period April 1, 1995 through June 30, 1996, subject to change following the Department's review of the Companies' evaluations of DSM program savings. In a subsequent Order, the Department will determine whether the savings estimates included in the Companies' M&E Report satisfy the criteria established by the Department for the review of such evaluations.[4]

B. Procedural History

On May 29, 1992, by Letter Order issued in Cambridge Electric Light Company/Commonwealth Electric Company, D.P.U. 91-234,[5] the Department required the Companies to submit, by July 1, 1993, a draft request for proposals ("RFP") that would employ a competitive process to identify new DSM programs for the Companies, for implementation beginning July 1, 1994. The February 24, 1995 Joint Supplemental Petition incorporated detailed information regarding CC rates to recover costs for contracts approved by the Department based

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331/91-80, at 169-70 (1991) ("D.P.U. 91-80").

4 The Department's standard for reviewing impact evaluations was established in Massachusetts Electric Company, D,P.U. 92-217-B (1994); see also Cambridge Electric Light Company/Commonwealth Electric Company, D.P.U. 94-2/3-CC (1994) ("D.P.U. 94-2/3-CC").

5 D.P.U. 91-234 is the Companies' integrated resource management ("IRM") proceeding.

on the DSM RFP Award Group approved on May 31, 1994 in Cambridge Electric Light Company/Commonwealth Electric Company, D.P.U. 91-234-B (1994) and in subsequent orders. See D.P.U. 91-234-C (1994); D.P.U. 91-234-D (1994); D.P.U. 91-234-F (1994); D.P.U. 91-234-H (1994); D.P.U. 91-234-I (1994); D.P.U. 91-234-J (1995).

On December 23, 1992, the Companies filed rate schedules M.D.P.U. No. 523 (Cambridge) and M.D.P.U. No. 276 (Commonwealth), which incorporated the LBR that the Companies requested to recover through their CCs. The Department's investigation of the Companies' LBR request was docketed as D.P.U. 93-15/16. In an Order issued by the Department on June 30, 1993, the Companies were directed to collect DSM expenses (for July 1, 1993 to June 30, 1994) and projected LBR (for January 1, 1993 to June 30, 1994) through their CCs through June 30, 1994. Cambridge Electric Light Company/Commonwealth Electric Company, D.P.U. 93-15/16 (1993) ("D.P.U. 93-15/16"). On November 1, 1993, after investigating the reconciliation of under- and over-recovery of DSM expenses from January 1, 1992 to June 30, 1993, the Department ordered the Companies' CCs revised effective until June 30, 1994. Cambridge Electric Light Company/Commonwealth Electric Company, D.P.U. 93-15/16-A (1993) ("D.P.U. 93-15/16-A"). Finally, in D.P.U. 94-2/3-CC, the Department approved the CCs that are currently in effect.[6]

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[6] On January 28, 1994, the Companies submitted a "Work Plan," setting forth a suggested filing schedule for CCs that would be proposed for the period July 1, 1994 to June 30, 1995, and for the M&E Report. The Companies' Work Plan was approved by the Department on March 9, 1994. However, on January 13, 1995, the Companies proposed to file CCs to be effective over a fifteen-month period beginning April 1, 1995 through June 30, 1996.

On March 15, 1995, the Department held a public hearing regarding the proposed CCs pursuant to notice duly issued.[7] The Attorney General of the Commonwealth ("Attorney General") intervened as of right pursuant to G.L. c. 12, § 11E. Boston Edison Company and Eastern Edison Company petitioned for and were granted leave to intervene as limited participants. SESCO, Inc. ("SESCO") petitioned for leave to intervene as a full party ("Petition"). The Petition is discussed below at Section I.C.

Following the public hearing, an evidentiary hearing was held on the same date. The evidentiary record consists of six exhibits offered by the Companies, the Companies' responses to 14 information requests issued by the Department, and the Companies' responses to ten record requests, nine from the Department and one from the Attorney General. In addition, on March 24, 1995, the Companies filed revised CC rates, which are hereby admitted as Exhibit Co-6. The Companies sponsored the testimony of the following persons: Paul Fiocchi, manager of demand program administrative services for COM/Energy System; Anthony J. Casella, manager of administration for COM/Energy Services; and Charles P. Salamone, manager of transmission planning for COM/Energy System. Briefs were filed by the Companies and the Attorney General.

C. SESCO's Petition to Intervene

On March 7, 1995, SESCO filed a Petition to Intervene ("Petition") as a full party, with all rights accorded full parties. On March 14, 1995, the Companies filed an Objection to Petition to Intervene ("Objection"), contending that the Petition was deficient in that it failed to state the

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[7] The Order of Notice stated that petitions to intervene must be filed by March 7, 1995, and also indicated that the Department would investigate alternative methodologies by which to calculate LBR. See Eastern Edison Company, D.P.U. 94-4-CC (1994) (D.P.U. 94-4-CC").

nature of the evidence that SESCO would present; that D.P.U. 91-234 was the proper forum to resolve SESCO's concerns; that SESCO was not a customer of the Companies; that Commonwealth did not have an approved contract with SESCO, and that in D.P.U. 94-2/3-CC at 48, the Department had ruled that expenditures not yet approved by the Department would not be included in the CCs. On March 15, 1995, shortly before the commencement of the public hearing, SESCO filed a Response to the Companies' Objection to SESCO's Petition ("Response to Objection"). SESCO stated that it did not wish to present testimony (Response to Objection at n. 1), but rather wished to limit its focus to the issue of how the SESCO-Commonwealth contract would be funded if it were successfully negotiated and approved by the Department and alternatively, to explore the merits of "including the budget projection now, subject to refund if the SESCO-Commonwealth contract does not go into effect" (id. at 4-5).

At the public hearing, the Hearing Officer denied SESCO leave to intervene as a full intervenor,[8] stating that SESCO was not substantially and specifically affected and that, pursuant to D.P.U. 94-2/3-CC, the Companies had properly excluded expenses relating to contracts not yet approved by the Department (Tr. at 6-7). On March 20, 1995, SESCO appealed the Hearing Officer's ruling denying its petition for intervention ("Appeal"). SESCO argued that the Hearing Officer should not have relied on D.P.U. 94-2/3-CC as an indication of "the Department's immutable practice or policy" (Appeal at 7). SESCO also contended that the Hearing Officer had failed to apply a balancing test, citing New England Telephone and Telegraph Company, d/b/a NYNEX, D.P.U. 94-50, at 3 (Order On Appeal By Mark Brown Of Hearing Officer Ruling

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[8] SESCO did not seek status as a limited participant in the alternative.

Denying Late-Filed Petition To Intervene) (July 22, 1994) ("NYNEX") as precedent (id. at 8). Additionally, SESCO stated that it had learned at the evidentiary hearing that Cambridge planned to eliminate the funding for two Department-approved contracts with SESCO in a revised CC filing, because it had issued Notices of Termination with respect to those contracts with SESCO (id. at 4). SESCO disputes the validity of the terminations and apparently wants the Department to require the Companies to maintain adequate funding for the two programs in its CC calculations (id.). SESCO reasons that D.P.U. 94-2/3-CC does not apply to preapproved contracts that have since been terminated (id.). On March 22, 1995, the Companies filed a Response to SESCO's Appeal of the Hearing Officer's Ruling ("Response to Appeal"), reiterating its earlier arguments in its Objection and, inter alia, contending that expenses for contracts that have not yet been approved by the Department or that have since been terminated by the Companies should not be included in the CC budgets (Response to Appeal at 6).

The Department's regulations require that a petition to intervene describe how the petitioner is substantially and specifically affected by a proceeding. 220 C.M.R. § 1.03(1)(b); see also G.L. c. 30A, § 10. The Department has broad discretion in determining whether to allow participation, and the extent of participation, in Department proceedings. Attorney General v. Department of Public Utilities, 390 Mass. 208, 216 (1983). In NYNEX at 3, the Department applied the balancing test relied upon by SESCO in its Appeal to a late-filed petition, weighing "the extent of participation against the need to conduct a proceeding in a complete, efficient and orderly fashion." See also New England Telephone and Telegraph Company, D.P.U. 89-300, at 5 (1990) ("NET"). In NET at 5, the Department discussed the threshold requirement that the interests of a

petitioner be balanced against the Department's need to conduct orderly and efficient proceedings. See also Western Massachusetts Electric Company, D.P.U. 92-8C-A at 5 (Order On Appeal By Massachusetts Municipal Wholesale Electric Company Of Hearing Officer Ruling Denying Late-Filed Petition To Intervene) (June 25, 1993); Taunton Municipal Lighting Plant, D.P.U. 91-273/92-273, at 5 (Order On Appeal By Massachusetts Public Interest Research Group Of Hearing Officer Ruling Denying Late-Filed Petition To Intervene) (January 19, 1994). Therefore, before the balancing test is applied, the petitioner must first demonstrate a sufficient interest to be balanced. Here, the Hearing Officer correctly found that SESCO would not be affected by the outcome of the proceedings[9] and therefore was not substantially and specifically affected.[10] Full intervention rights were thus appropriately denied. Therefore, the Department hereby denies SESCO's Appeal from the March 15, 1995 Hearing Officer's ruling.[11]

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9 The Department stated in D.P.U. 94-2/3-CC at 48 that the Companies may not collect in the CCs expenditures for contracts that have not yet been approved by the Department.

10 Without ruling on the timeliness of SESCO's argument with regard to the terminated Cambridge contracts, raised for the first time on appeal, the Department notes that because ratepayers are not currently benefitting from the Department-approved but terminated contracts, the CC budgets should not include those expenditures. See D.P.U. 94-2/3-CC at 50, citing D.P.U. 93-15/16-A at 35.

11 On March 27, 1995, SESCO filed a letter contesting the Companies' statement in its Objection to Appeal that SESCO had stated that the termination of SESCO contracts for Cambridge will be reviewed in D.P.U. 91-234. The Department notes that SESCO did not challenge the legitimacy of Cambridge's action in terminating the contracts in D.P.U. 91-234. In any event, the CC proceeding is not the appropriate forum for this dispute for the same reasons that the SESCO Appeal is denied.

II. PROPOSED CC RATES

A. Introduction

The Companies submitted revised CC rates on March 24, 1995 (Exh. Co-6). The CC rates are composed of three components: projected DSM expenditures for the period April 1, 1995 through June 30, 1996; projected lost base revenue for the period April 1, 1995 through June 30, 1996; and a reconciling adjustment of over- and under-recoveries of DSM expenditures through March 31, 1995 (Exh. Co-2, at 2.16-2.17).

B. Projected DSM Expenditures

1. Introduction

The Companies stated that projected DSM expenditures consist of three components (Exh. Co-1, at 1.5). The first component includes "committed" expenditures relating to DSM activity previously preapproved by the Department (id.). The second component includes those expenditures projected to be incurred through the implementation of 16 new DSM programs that resulted from the Companies' IRM DSM solicitation (id. at 1.6; Exh. Co-6, at 1.2).[12] The third component includes payments made in the settlement of the Resource Conservation Systems' ("RCS") litigation, which represents a final resolution of billing disputes stemming from implementation of certain of the Companies' DSM programs in 1990 and 1991 (id. at 1.6; Exh. Co-2, at 2.12).

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[12] Since the February 24, 1995 filing, the Companies terminated two program contracts (Exh. Co-6, at 1.2). See Section I.C, above.

2. Environmental Externalities

a. Description

The Supreme Judicial Court ("SJC") recently vacated the Department's Order in D.P.U. 91-131 (1992) which had confirmed established values for environmental externalities to be used in resource planning processes by electric companies. Massachusetts Electric Company v. Department of Public Utilities, 419 Mass. 239 (1994). In Boston Edison Company, D.P.U. 95-1-CC ("D.P.U. 95-1-CC") at 13 (1995), the Department addressed the SJC decision, stating that "the Department will no longer impose on the utilities' resource procurement process the [environmental externality] values established in D.P.U. 89-239 and D.P.U. 91-131." The Department indicated, however, that it would be appropriate for utility companies to "consider in the resource selection process whether particular resources have environmental compliance or similar costs associated with them." Id. at 12.[13] The Department further stated that it is "a matter of management responsibility and function to judge the value of a resource to serving its customers" and reminded utilities that "reasonably foreseeable environmental control requirements with cost implications for ratepayers be considered in weighing resource alternatives." Id. at 13, 14; see also Department Letter dated March 10, 1995 to Commonwealth Gas Company in Commonwealth Gas Company, D.P.U. 94-128.

In the instant case, the Companies indicated that they developed DSM budgets and implementation plans with full consideration of the SJC's decision in Massachusetts Electric

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[13] The Department cited tradeable emission permits and the avoidance of possible non-compliance fines from the operation of certain types of power plants as examples of the kinds of benefits to consider when comparing the values of different resources. D.P.U. 95-1-CC at 12, 13.

Company (Exh. Co-2, at 2.25). The Companies stated that the implementation of DSM programs will not result in the avoidance of Clean Air Act Amendment ("CAAA") compliance costs for existing generation facilities on their system (RR-AG-1). The Companies also stated that future generating facilities are assumed to be fueled by natural gas and designed to meet all existing environmental requirements; as such, the cost of compliance with the CAAA is reflected in the Companies' cost-effectiveness analysis (id.).

The Companies further asserted that their resources will not be affected by the CAAA's requirements for sulphur dioxide ("SO_2") control until the year 2000, when Phase II of CAAA implementation begins (RR-DPU-2). The Companies stated that, at that time, SO_2 allowances will be available to the Companies for emissions compliance and for trading of excess allowances (id.). The Companies stated that they have not attempted to quantify the value SO_2 emission allowances will have during Phase II of the CAAA implementation because of the uncertainty associated with (1) the effect, if any, compliance will have on the operating characteristics of the Companies' generating facilities; and (2) the market value of an SO_2 allowance once an active market is developed (id.).

The Companies stated that they rescreened for cost-effectiveness the 16 proposals that won contracts to provide DSM services through the Companies' DSM RFP using an analysis that did not include any values for environmental externalities but held constant all other assumptions approved in the Companies' IRM proceeding (Exh. Co-2, at 2.26). The Companies indicated that three of the 16 DSM contracts are no longer cost-effective, but only marginally so (id.).[14] The

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[14] The three contracts that are no longer cost-effective include the EUA Cogenex contract

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Companies propose to honor all of the DSM RFP contracts, including those considered not cost-effective without the consideration of environmental externalities, in order to "maintain the integrity of the DSM RFP process and to fulfill the legitimate expectations of current customers and IRM bidders" (id. at 2.27).[15]

The Companies also indicated that they rescreened the new construction programs proposed by the Companies and currently under review by the Department (id. at 2.26). The Companies stated that these programs, with the exception of the residential non-electric heat market sector, are no longer cost-effective without the consideration of externality values (id.). The Companies proposed not to implement these programs (including the residential non-electric heat program) and, instead, suggested that they might solicit new construction programs in their upcoming IRM proceeding (id. at 2.29).

b. Analysis and Findings

The Companies state that they included in their revised cost-effectiveness analysis the costs associated with all existing environmental requirements.[16] The record indicates, however,

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with Commonwealth in the medium/large general market sector, and the EUA Cogenex and CES/Way contracts with Cambridge in the medium/large general market sector (Exh. Co-2, at 2.26).

[15] The Companies later indicated that they would meet with the contractors of the no longer cost-effective proposals to encourage the contractors to enhance cost-effectiveness in a manner consistent with the approved contracts (Exh. Co-2, at 2.29).

[16] In D.P.U. 93-112-A at 17-18 (1994) (Investigation by the Department into the effects of implementation of the Clean Air Act Amendments of 1990 on the resource planning and procurement processes of electric companies), the Department stated that utilities should include CAAA compliance costs and options and should consider other reasonably

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that the Companies did not incorporate in their revised cost-effectiveness analysis the value of SO_2 emission allowances offset by the Companies' DSM programs. The Department finds that the Companies' omission of SO_2 emission allowance valuation is problematic for two reasons. First, if the Companies reduce emissions from their generating facilities through DSM implementation, either they will have more emission allowances to sell on the open market, or they will need to procure fewer emission allowances for CAAA compliance.

Second, the Companies have failed to consider the additional emission allowances the Company may be entitled to via the Conservation and Renewable Energy Reserve ("CRER") program pursuant to the CAAA.[17] The Department notes that the Companies are likely to meet the eligibility requirements established by the Environmental Protection Agency for participation in the CRER program. Therefore, the Department directs the Companies to submit in their next IRM filing(s), an assessment of the value of DSM implementation that may be associated with SO_2 allowances (1) through emission reductions associated with energy savings due to DSM implementation and (2) through participation in the CRER program. See Section II.B.4.b, below. In doing so, the Companies should fully explain all assumptions and calculations.

In addition, the Companies have provided no assessment regarding the impact that potential future regulations may have on the operation of the Companies' generating facilities, and thus, on the cost-effectiveness of DSM.[18] The Department finds that the Companies have not

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foreseeable environmental regulations when evaluating resource alternatives.

[17] The CRER program provides a limited number of allowances to emitters of SO_2 who implement DSM and/or renewable energy programs (CAAA, Sec. 404(f)).
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demonstrated that they fully considered all reasonably foreseeable environmental control costs which the Company might avoid by implementing its DSM programs. Therefore, the Department directs the Companies to submit, in their next IRM filing(s), an analysis of all reasonably foreseeable environmental control costs and their effect on the Companies' avoided costs.

The Companies seek approval to recover the costs associated with three DSM RFP contracts that are not cost-effective absent consideration of environmental externality values. The Department notes that these contracts were considered to be consistent with the IRM regulations and in the public interest, and were approved as such. See D.P.U. 91-234-C; D.P.U. 91-234-H. The record also indicates that the Companies intend to discuss potential improvements in the implementation of such contracts in order to make the associated programs more cost-effective. Therefore, the Department accepts the Companies' proposal to continue honoring these contracts, provided that the Companies seek improvements in such contracts in a manner consistent with (1) the DSM RFP approved by the Department in D.P.U. 91-234-A; and (2) with any revisions to the Companies' cost-effectiveness analysis based on the value of SO_2 allowances and all other reasonably foreseeable environmental control costs.[19]

Regarding the Companies' proposal to not implement their new construction programs, the Department notes that our recent Order in D.P.U. 91-234-J found that the Companies' proposed

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[18] For example, the Companies have not examined the likelihood and the cost of new or more stringent requirements related to utility emissions of hazardous air pollutants, particulate matter, sulfates, carbon dioxide or others.

[19] Prior to the review and approval of the Companies' next IRM filing(s) by the Department, the Companies should use appropriate discretion in evaluating SO_2 emission allowances and other reasonably foreseeable environmental control costs.

program designs provided insufficient information to allow approval; thus the Companies' proposal is moot.

3. Committed Expenditures

a. Introduction

The committed expenditure category includes direct expenses associated with implementation of the Residential Electric Space Heat ("RESH") Program, the Customized Rebate Program ("CRP"), the Super Efficient Refrigerator Program ("SERP"), and the Conservation Voltage Regulation ("CVR") Program (Exh. Co-2, at 2.6-7). In addition, the committed expenditure category includes "the amortization of deferred DSM expenditures previously incurred, including interest, in compliance with the findings of the Department in D.P.U. 91-80 Phase Two-A" (id. at 2.8).

b. RESH Expenditures

The Companies' proposed CC rates include RESH Program expenditures that are based on the enrollment in this program terminating on December 31, 1994 with the commencement of new IRM DSM programs (id. at 2.6). The Companies stated that, accordingly, installation expenses included in the proposed CC rates relate solely to activities to serve customers that enrolled prior to December 31, 1994 (id.). The Companies stated that, in addition, evaluation activities for past program implementation will continue during the upcoming CC period (id.). The Department previously approved the Companies' proposal to continue enrolling customers in this program until December 31, 1994 in order to provide continuity of service to their residential ratepayers. See D.P.U. 91-234-C at 4 and Letter Order dated October 4, 1994. The Department finds that

the dollar amounts included in the Companies' CC rate calculations related to RESH Program expenditures are consistent with the Companies' obligations to honor commitments made to RESH Program participants prior to the program termination date. Accordingly, the Department approves the Companies' proposed expenditures for RESH Program installations. In addition, the Department finds that the M&E expenditures are consistent with the Companies' obligation to develop reliable savings estimates for these programs and, therefore, approves the level of M&E expenditures included in the proposed CC rates for the RESH Program.

c. CRP Expenditures

The Companies stated that CRP expenditures included in the proposed CC rates reflect rebate and amortization payments as well as inspection and evaluation costs (Exh. Co-2, at 2.7). The Department finds that the CRP rebate and amortization expenditures are consistent with the Department's directives in D.P.U. 91-80 Phase Two-A and consistent with the levels approved in D.P.U. 94-2/3-CC. In addition, the Department finds that the inspection and evaluation expenditures are consistent with the Companies' obligation to develop reliable savings estimates for this program. Therefore, the Department approves the level of CRP expenditures included in the proposed CC rates.

d. SERP Expenditures

Commonwealth's proposed CC rates include SERP expenditures as originally approved in D.P.U. 91-234-B (id. at 2.8). The expected 1996 annual payment of $120,000 for Commonwealth reflects continued participation in SERP (id.). The Companies originally proposed to defer recovery of Cambridge's SERP expenditures for one year without interest in

order to retain a CC Decimal cap of $0.0045, but were able to include such costs in the CCs after removing the costs of the two terminated contracts from the CC calculation (id.; Exh. Co-6, at 1.2). The Department finds that the Companies' continued participation in SERP and the dollar amounts included in the CC rate calculations are consistent with Department directives and approval in D.P.U. 91-234-B. Accordingly, the Department approves the Companies' proposed cost recovery of expenses associated with participation in SERP.

e. CVR Expenditures

The Companies indicated that they expect to incur expenses of $141,000 on Commonwealth's system and $44,000 on Cambridge's system to implement the CVR Program during the 15-month period from April 1, 1995 to June 30, 1996 (Exh. Co-2, at 2.44, 2.62, 2.80, 2.98). These expenses comprise $80,000 for engineering consulting, $100,000 for computer modeling software and hardware leasing, and $5,000 for telephone equipment leasing necessary to implement CVR (id.). The Companies stated that the consulting expense is a "one-time cost" of contracting with a consultant to develop specifications for the CVR hardware and software system for use in the second phase of their CVR program (Tr. at 95; Exh. Co-3, at 3.8).[20] The

[20] The Companies began Phase I of the CVR program in April 1993 (Exh. Co-3, at 3.4). Designed as a three-year evaluation program, Phase I was intended to estimate the benefit-cost ratio of the program and to examine program implementation methods (id.). Phase II is scheduled to begin April 1, 1996 and entails a detailed circuit-by-circuit analysis of the Companies' service territories and CVR implementation on those circuits having a benefit-cost ratio greater than one (id. at 3.9-3.10).

Companies reported benefit-cost ratios of 1.52 for Commonwealth and 2.47 for Cambridge (Exh. DPU-1-10).[21]

The Department finds that recovery of the equipment leasing costs is consistent with Department findings in D.P.U. 94-2/3-CC. In addition, the Department finds that the consulting costs are consistent with the Companies' plan to use the results of Phase I of the CVR Program to determine the level of implementation in Phase II. Therefore, the Department approves the level of CVR expenditures included in the proposed CC rates.

f. Internal Amortization

The Companies stated that internal amortization refers to those DSM expenditures previously incurred in compliance with D.P.U. 91-80 Phase Two-A (Exh. Co-2, at 2.8). The Department finds that these expenditures are consistent with the provisions of the Settlement approved by the Department in that Order and with the levels approved in D.P.U. 94-2/3-CC. Therefore, the Department approves the level of internal amortization expenditures included in the proposed CC rates.

4. IRM Expenditures

a. Description

The Companies propose to include in the CC rates expenditures relating to the Companies' IRM DSM solicitation process which resulted in 18 Department-approved contracts (Exh. Co-2, at 2.9). See D.P.U. 91-234-C, D.P.U. 91-234-D, D.P.U. 91-234-F, D.P.U. 91-234-H, and

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[21] Based on the reported experience of other electric utility companies in Massachusetts, the Department expects the benefit-cost ratios of the CVR Program to increase during the actual implementation in Phase II.

D.P.U. 91-234-I. These expenditures include direct payments projected for 16 approved contracts, expenditures for measurement and verification ("M&V") activities related to the implementation of DSM programs solicited through IRM, estimates of M&V equipment leasing expenses, and expenditures associated with certain DSM consulting services (Exh Co-2, at 2.9-2.12). The consulting services included engineering assistance, M&V planning assistance, joint utility studies, sampling and persistence studies, and impact and process evaluation planning assistance (id. at 2.11). In addition, the Companies included expenses associated with the gathering of market, economic and technical potential information for their second IRM cycle, as well as with technical assistance in developing a DSM RFP for that IRM cycle (id.).[22]

b. Analysis and Findings

In D.P.U. 94-2/3-CC at 50, the Department stated that "[i]n order to approve the Companies' proposal to recover a portion of [certain] expenditures, the Department must find that the activities associated with those expenditures are providing benefits to their ratepayers." In that Order, the Department denied recovery of certain expenditures because the Companies did not sufficiently demonstrate that those expenditures would ever provide direct benefits to ratepayers. Id.

With respect to the Companies' proposal to recover expenses associated with their second IRM cycle, the Department notes that the proceeding is not scheduled to begin until 45 days after an order is issued in D.P.U. 94-162 (the docket in which revised IRM procedures are being

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[22] Expenses associated with market, economic and technical potential data amount to $66,000 for Commonwealth and $28,000 for Cambridge (Exh. Co-2 at 2.48, 2.66, 2.84, 2.102). Expenses related to assistance in developing a DSM RFP amount to $20,000 for Commonwealth and $10,000 for Cambridge (id.).

considered), and that resources most likely will not be procured in that proceeding until sometime in 1996; therefore, ratepayers may not benefit from such expenditures between April 1, 1995 and June 30, 1996. Accordingly, the Department denies recovery of a total of $94,000 in expenses associated with market, economic and technical potential information and a total of $30,000 in expenses for technical assistance in the development of a DSM RFP for the Companies' second IRM cycle in this proceeding. The Companies may propose recovery of these expenses related to integrated resource planning in a future CC proceeding.

With respect to the remainder of the Companies' IRM-related expenditures, the Department finds that the dollar amounts included in the Companies' CC rate calculations related to IRM program expenditures are consistent with the Companies' obligations to the DSM service providers that have complied with contract terms, and with the Companies' obligations to monitor and verify the savings achieved pursuant to those contracts. Therefore, the Companies are directed to recalculate their CC rates, excluding the amounts discussed above, and to submit the revised CCs in a compliance filing to this Order.

5. RCS Settlement

The Companies proposed to recover in the CC rates expenditures of $757,000 for Commonwealth and $97,000 for Cambridge associated with the settlement of a billing dispute with RCS ("RCS Settlement") (Exh. Co-2, at 2.13).[23] The Companies stated that the proposed

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[23] RCS maintained that the Companies owed it $6.8 million for conservation services to the Companies' customers under the Commercial and Industrial Direct Investment and Customized Rebate Programs (Exh. Co-2, at 2.12, 2.13). After the Companies conducted on-site inspections of participating customers' facilities, the Companies determined that the payment request was too high and withheld payment pending resolution of the billing

(continued...)

recovery for Commonwealth represents 15 months of a proposed seven-year amortization schedule associated with $2,222,348 in total RCS Settlement payments (id. at 2.15). Cambridge proposes to recover its entire RCS Settlement expenditure during the 15-month period from April 1, 1995 through June 30, 1996 (id. at 2.15). The Companies indicated that the total requested amount of $2,319,081 is the portion of the $3.0 million owed to RCS that is associated with DSM installations only, and does not include other settlement-related payments such as consulting and legal fees (id. at 2.14).

The Companies indicated that the DSM savings estimates were based on rigorous post-installation inspections (id.). The Companies stated that an analysis of the costs and savings associated with the contracts involved in the RCS billing dispute indicated that the RCS Settlement expenditures provided significant net benefits to the Companies' customers (id.).

The Department notes that the recovery of the RCS Settlement expenditures was reviewed and approved in D.P.U. 91-234-A at 15-18. Further, the Department finds that the Companies' proposed cost recovery is reasonable and appropriate, and thus, approves the recovery of these expenses as proposed.

C. Lost Base Revenue

1. Description

The Companies currently recover LBR associated with DSM measures installed during the years 1989 through 1994 (Exhs. Co-2, at 2.16; DPU-1-6). Consistent with the revised schedule

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(...continued)
dispute (id. at 2.13). The Companies settled their billing dispute with RCS for $3.0 million in September 1994 (id.).

for implementation of CCs proposed by the Companies, the Companies propose to recover LBR associated with DSM measures installed during the years 1989 through 1995 over the 15-month period April 1, 1995 through June 30, 1996 (Exh. Co-2, at 2.17). The Companies propose to provide an initial reconciliation of savings estimates associated with DSM installed during the current recovery period, and a final reconciliation of savings estimates associated with DSM measures installed during the January 1, 1993 through June 30, 1994 LBR recovery period after the impact evaluations scheduled to be filed in April 1995 are reviewed by the Department (id.).

The Companies calculated the proposed LBR amount for programs implemented by the Companies that preceded those programs acquired through the IRM DSM RFP. The LBR amount was based on the savings estimates reviewed and approved by the Department in D.P.U. 94-2/3-CC (id.). For programs procured through the IRM DSM RFP, the Companies propose to base the LBR recovery on savings estimates provided in the program bids, which the Companies consider to be the best available data on program savings (id. at 2.17, 2.18).[24]

The Companies also proposed to recover LBR consistent with the Department's directives in D.P.U. 94-4-CC and D.P.U. 95-1-CC (id. at 2.21). In those proceedings, the Department instituted an alternative mechanism by which to calculate LBR called the "Rolling Period Methodology." D.P.U. 94-4-CC at 42-44; D.P.U. 95-1-CC at 67-68. The Rolling Period Methodology allows a company to recover LBR associated with any one year of DSM implementation for a period of time equal to the average length of time between that company's

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[24] The Companies note that the IRM DSM RFP specified that bidders apply net-to-gross ratios for all energy savings projections included in their bids and that, therefore, the proposed LBR decimals are based on net savings estimates (Exh. Co-2, at 19).

last four rate cases, or until new rates take effect subsequent to a new base rate proceeding, whichever comes first.[25] See D.P.U. 94-4-CC at 36. The Companies stated that, for each Company, the average length of time between its last four rate case proceedings is approximately four years (RR-DPU-4). The Companies indicated that, for rate continuity reasons, they propose to implement the Rolling Period Methodology differently than was instituted by Eastern Edison Company (Exh. Co-2, at 2.22).[26]

2. Positions of the Parties

a. Attorney General

The Attorney General states that the Department's Rolling Period Methodology would allow the Companies to recover LBR for only the four DSM program years, 1992 through 1995 (Attorney General Brief at 2). The Attorney General contends that the Companies' proposal to recover LBR for the DSM program years 1989, 1990, and 1991 for Commonwealth and 1991 for Cambridge, in addition to the DSM program years 1992 through 1995 for each Company, is contrary to the Department's precedent, and should be disallowed (id.). The Attorney General argues that while the Department has granted recovery of LBR for the DSM program years in

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[25] In D.P.U. 94-4-CC and D.P.U. 95-1-CC, the Department also investigated two other alternative LBR recovery methods entitled the "Avoided Cost Methodology" and the "Return on Equity ("ROE") Cap Methodology." D.P.U. 94-4-CC at 35-36. The Avoided Cost Methodology proposed the subtraction of costs that had been avoided as a result of the implementation of DSM from a gross LBR calculation. Id. at 35. The ROE Cap Methodology proposed the recovery of LBR contingent on an electric company's not earning its allowed return on equity as specified in its last base rate proceeding. Id. at 36.

[26] In D.P.U. 94-4-CC at 35, Eastern Edison Company was allowed to recover, retroactively, past LBR that had gone unrecovered. In the instant case, the Companies indicated that such treatment of their LBR would be inappropriate (Exh. Co-2, at 22).

question in D.P.U. 93-15/16 and D.P.U. 94-2/3-CC, the Department can change its precedent after giving fair opportunity for all to comment on changes to its standards (id.). The Attorney General asserts that the Department did not allow recovery of LBR for savings associated with those years of DSM implementation indefinitely (id.). The Attorney General contends that allowing the Companies to continue to collect LBR associated with DSM installations made since 1989 for Commonwealth and 1991 for Cambridge would be unfair to their customers and would exacerbate rate impacts (id.).

b. The Companies

The Companies contend that the Attorney General's arguments regarding the Companies' proposal for implementation of the Rolling Period Methodology are based on either a mistake by the Attorney General or a misinterpretation of the Rolling Period Methodology by the Attorney General (Companies' Brief at 2). The Companies assert that their LBR proposal is consistent with Department precedent, consistent with approved planning and resource procurement assumptions, and necessary to maintain rate continuity for the Companies' customers and financial stability for the Companies (id.). The Companies argue that they are eligible to recover the proposed LBR amounts because they have only recovered LBR for two complete years to date and that, consistent with the Rolling Period Methodology, they are entitled to recover LBR associated with any year of implementation for four years (id. at 4).

3. Analysis and Findings

The record indicates that the Companies calculated total unrecovered LBR based on a combination of approved savings estimates and, where such estimates were not available, on

savings estimates projected by project developers as included in their bids to the Companies in the DSM RFP. The record also indicates that the Companies intend to fully reconcile the savings estimates using a two-step process consistent with the Department's precedent. The Department finds the Companies' savings estimates to be reasonable and appropriate for the purposes of calculating LBR, and thereby approves such estimates.

Regarding the Companies' proposal to implement the Rolling Period Methodology, the Department instituted that methodology to recover "LBR associated with a specific year of DSM implementation during a period equal to the average length of time between each of the Company's last four rate cases, or until new rates take effect subsequent to a new base rate proceeding, whichever comes first." D.P.U. 95-1-CC at 60. The record indicates that for each Company, the average length of time between its last four rate case proceedings is approximately four years. The record also indicates that the Companies have not yet recovered LBR associated with DSM implementation during the years 1989 through 1994 over a period of four years for each year of implementation. The Department finds that the Companies' proposal is consistent with the Department's Rolling Period Methodology as implemented in D.P.U. 94-4-CC and D.P.U. 95-1-CC. Accordingly, the Department approves the Companies' implementation of the Rolling Period Methodology as proposed.

III. ORDER

Accordingly, after notice, hearing and due consideration, it is hereby

ORDERED: That the conservation charges filed by Commonwealth Electric Company and Cambridge Electric Light Company for the fifteen-month period April 1, 1995 through June 30, 1996 be and hereby are DENIED, and it is

FURTHER ORDERED: That the Companies shall file a compliance filing on or before April 4, 1995. The compliance filing shall contain recalculations of the Companies' CC rates demonstrating the removal of costs disallowed consistent with the directives set forth in this Order, and it is

FURTHER ORDERED: That the Companies shall file, with their next IRM filing(s), an assessment of the value of DSM implementation as may be associated with SO_2 allowances including all assumptions and calculations, and an analysis of all reasonably foreseeable environmental control costs and their effect on the Companies' avoided costs, and it is

FURTHER ORDERED: That the Companies shall comply with all other directives contained herein.

By Order of the Department,

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Kenneth Gordon, Chairman

_____

Janet Gail Besser,
Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).